

HOUSE BILL REPORT

SB 5347

As Reported by House Committee On: Judiciary

Title: An act relating to indemnifying and defending department of social and health services appointed temporary managers in nursing homes.

Brief Description: Requiring the department of social and health services to defend temporary managers in nursing homes.

Sponsors: Senators Keiser and Brandland; by request of Department of Social and Health Services.

Brief History:

Committee Activity:

Judiciary: 3/22/05, 3/23/05 [DP].

Brief Summary of Bill

- Requires the Department of Social and Health Services to indemnify, defend, and hold harmless temporary managers of nursing homes against claims for actions that are not intentional torts or criminal behavior.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: Do pass. Signed by 9 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Priest, Ranking Minority Member; Campbell, Kirby, Serben, Springer and Wood.

Staff: Trudes Tango Hutcheson (786-7384).

Background:

The Department of Social and Health Services (DSHS) licenses nursing homes and monitors their compliance with state and federal regulations. If a nursing home is not in compliance, the DSHS may impose penalties and use other remedies to force compliance.

The DSHS may appoint a temporary manager to oversee the operation of the nursing home when the nursing home has a history of noncompliance, has a certain number of deficiencies during one inspection, or has been unable to provide an acceptable plan to correct deficiencies.

When the DSHS appoints a temporary manager, the licensee must immediately turn over the operation of the nursing home to the temporary manager. The temporary manager must protect the health, security, and welfare of the residents, and may perform such acts as overseeing facility closure, temporarily relocating residents, and managing employees. The DSHS must terminate the temporary management after three months unless there is good cause to continue it.

An intentional tort generally requires that the person act with purpose or intent to achieve the result or that the person believed the consequences were substantially certain to result from the person's act. Intentional torts do not include acts that are considered negligent, grossly negligent, or reckless.

Summary of Bill:

The DSHS shall indemnify, defend, and hold harmless a temporary manager of a nursing home against claims made against the temporary manager for the temporary manager's or its agent's actions that are not intentional torts or criminal behavior.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This is identical to the House bill. When a nursing home is in crisis, the DSHS is able to put in a temporary manager quickly to oversee operations. This protects the residents of the nursing homes from disruption. To date, there have not been any problems with temporary managers, but they still need to obtain insurance coverage.

Testimony Against: None.

Persons Testifying: Senator Keiser, prime sponsor; and Joyce Stockwell, Department of Social and Health Services.

Persons Signed In To Testify But Not Testifying: None.